



March 16, 2010

Regulatory Flexibility and Enforcement Fairness Act - Assembly Bill 767
Representative Peter Barca

Chairman Wirch and members of the Senate Committee on Small Business, Emergency Preparedness, Technical Colleges, and Consumer Protection; thank you for holding a public hearing on Assembly Bill 767. This bill will make the Small Business Regulatory Review Board more effective, and reinvent and strengthen the function currently known as the Small Business Ombudsman Clearinghouse as the Small Business Advocate by creating a permanent position and giving the position a stronger role, added responsibilities and more clout to lend small businesses a greater voice, fuller consideration and relief on regulatory issues to provide more direct assistance to businesses.

As the Partnership for a Stronger Economy has traveled the state, one of the concerns that small businesses have raised is that the state should strive to better understand the needs of small businesses, improve communication, and when possible work with small businesses to ensure regulations are not overly burdensome and penalties are not unnecessarily punitive.

Under the bill, state agencies are required to make an effort to educate and work with small businesses to help them to comply with regulations. They are encouraged to utilize written warnings, reduced fines, and other options to achieve rule compliance and avoid unnecessarily penalizing small businesses that are in violation of minor regulations that do not endanger the health and safety of people, the workplace or the environment, where the business is acting in good-faith to comply with the regulation.

Upon the request of a business, the Small Business Advocate will review and investigate the circumstances of an enforcement action against a small business and make recommendations regarding alternative enforcement to the enforcing agency. Agencies are required to respond within 45 days. The Small Business Advocate is required to compile data regarding these investigations, analyze the data for trends, and annually report findings and recommendations to the Governor and Legislature.

Following my initial term in the legislature and tenure in Congress, I served as the Midwest Administrator for the US Small Business Administration. When the Federal Small Business Regulatory Enforcement Act was signed into law, I was appointed as the first National Ombudsman to oversee the program and the National Regulatory Fairness Board for the SBA. This legislation is an effort to replicate elements of the federal process.

The bill also ensures that the Small Business Regulatory Review Board, the committee charged with reviewing proposed regulations and making suggestions on how they can be modified to mitigate adverse effects on small businesses, has the opportunity to review any administrative rule that will have an economic impact on the state's small businesses, rather than simply the rules that state agencies believe will have a "significant" economic impact. Further, the bill adds an additional small business representative and removes agency representatives, which currently outnumber small business representatives. This legislation was developed in collaboration with the National Federation of Independent Businesses.

There is no doubt that the key to economic prosperity and the best way to create economic growth following the national financial crisis is to support small businesses. This bipartisan effort is an attempt to really make sure that there is someone in Madison whose only duty is looking out for small businesses. I thank all of you for your time today and I hope that we can count on your support when Assembly Bill 767 comes for a vote before this committee.



SENATOR JEFF PLALE
SEVENTH SENATE DISTRICT

CHAIR
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**Testimony of Senator Jeff Plale
Assembly Bill 767
Senate Committee on Small Business, Emergency Preparedness, Technical Colleges,
and Consumer Protection
March 16, 2010**

Thank you, Chairman Wirth and fellow members of the committee, for your consideration of Assembly Bill 767.

I am very pleased to testify in favor of this important bill, the Regulatory Flexibility and Enforcement Fairness Act.

Successful small businesses are the foundation of a healthy economy. A huge majority, 98%, of employers in Wisconsin are small businesses. As legislators and government officials, we should be doing everything in our power to promote small businesses and encourage job growth, especially in such trying economic circumstances.

AB 767 recognizes the critical role that small business plays in Wisconsin. The legislation increases the involvement and authority of the Small Business Regulatory Review Board. It reinvents and adds more teeth to the Small Business Ombudsman Clearinghouse and changes its title to the Office of the Small Business Advocate. The bill specifies that there must be at least one full time position dedicated to the Office of the Small Business Advocate to help assist that entity in dealing more directly with small businesses and agencies in small business matters.

Essentially, AB 767 requires agencies to more thoroughly consider the impact on small businesses when making decisions that may affect them. The bill helps small businesses stay in compliance with state rules and regulations, encourages state agencies to employ less severe enforcement actions for minor administrative rule violations whenever possible, and broadens the scope in which an agency should consider any economic impact on small businesses when making rules and other decisions.

This legislation has the support of the National Federation of Independent Businesses and is an essential step in further improving the relationship between the State of Wisconsin and the small businesses so critical to our economic health and potential.

Thank you for your time and consideration of AB 767. I am happy to answer any questions you may have regarding this bill.





Wisconsin

Statement Before the Senate Committee on Small Business, Emergency Preparedness, Technical Colleges, and Consumer Protection

By

**Bill G. Smith
State Director
National Federation of Independent Business
Wisconsin Chapter**

**Tuesday, March 16, 2010
Assembly Bill 767**

Mr. Chairman and members of the Committee, on behalf of the 12,000 member firms of NFIB/Wisconsin, thank you for today's hearing and your prompt consideration of Assembly Bill 767.

In 1980, President Jimmy Carter signed into law the then historic Regulatory Flexibility Act.

However, since 85 percent of Wisconsin firms have fewer than 20 employees, and three out of every four employ fewer than 10 workers, we quickly learned the need for more effective regulation of small business did not stop at the federal level.

In 1983, Governor Tony Earl signed into law a state version of the Regulatory Flexibility Act as part of the 1983 special session on economic development.

In 1996, and again in 2002, the federal Regulatory Flexibility Act was amended to improve it's effectiveness and efficiency in meeting the goals of the federal regulatory flexibility law.

In 2003, the Legislature enacted into law the Small Business Regulatory Fairness Act, the first revisions to Wisconsin's regulatory flexibility law enacted in 1983.

These laws call on government to be more sensitive to how regulations impact small business. The goals of the regulatory flexibility concept is to help government understand and address the inequity and basic unfairness of regulating Al's Garage in Rhinelander the same as Briggs and Stratton in Milwaukee.

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The 2003 Small Business Regulatory Fairness Act, signed into law by Governor Jim Doyle, included the creation of a Small Business Regulatory Review Board, and was also the first revisions to the Wisconsin regulatory flexibility law since enactment in 1983.

Assembly Bill 767 includes provisions that will streamline the regulatory review process, modify the membership of the Small Business Regulatory Review Board, and restore the duties of small business assistance at the Department of Commerce.

We believe this legislation addresses the procedural problems encountered by the Small Business Regulatory Review Board, and would also restore and expand the important function of providing valuable assistance to our state's small business community by the Department of Commerce.

According to SBA's Office of Advocacy, small business spends up to 80 percent more per employee complying with regulations than big business. And while small business employs 53 percent of the workforce, small business shoulders about 63 percent of the total cost of regulations.

In today's regulatory environment, small business owners often find themselves unsure of their compliance status, unaware of new regulations under development, uninvolved in the rule-making process, and uncertain of who to call for help within a state agency.

Studies by NFIB show a majority of our members find it is impossible to have knowledge and be in compliance with all the regulations that affect their business. And one in five small business owners believe the cost of regulations has caused them to eliminate jobs, or forced them to postpone the growth or expansion of their business.

Faced with unprecedented economic challenges, it is essential that regulatory barriers to small business growth and job creation be removed.

Assembly Bill 767 will significantly improve the regulatory process, increase regulatory compliance, promote more cost effective regulatory enforcement, and strengthen Wisconsin's economy by reducing the negative impact of regulations on our Main Street small businesses.

We are grateful to Senator Plale, Representative Barca, and all the co-sponsors of this important legislation, and **I urge members of the Committee to act promptly and favorably for passage.**

Thank you for your consideration.